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Serial No.: 09/834,350

REMARKS

Claims 1-10, 14-19, 21, 22 and 26-38 remain in the application. By this amendment, claims 1, 4, 8, 17, 29 and 30 have been amended. The present application as originally filed supports these amendments. No new matter has been added.

Indication of Allowance

The applicant gratefully acknowledges the indication that claims 4-5, 8, 10, and 31-32 will be allowed if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, claims 4 and 8 have been amended to independent form including all of the limitations of the base claim and any intervening claims. Applicant respectfully requests an indication of allowance of claims 4-5, 8, 10, and 31-32.

Claim Rejections Based on Villani

Claims 1-3, 6-7, 15-19, 21-22 and 27-30 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,848,949 to Villani. In response, independent claims 1, 17 and 29 have been amended to more clearly define the claimed invention. Applicant, therefore, respectfully requests reconsideration and withdrawal of the rejection of claims 1-3, 6-7, 15-19, 21-22 and 27-30 under 35 U.S.C. 102(b) as being anticipated by Villani.

Claims 1-3, 6, 7, 14-16, 33 and 34

As amended, independent claim 1, from which claims 2, 3, 6, 7, 14-16, 33 and 34 depend, recites an implantable access device comprising a port having a plate and at least two walls extending upwardly from the plate so that corners are formed between the plate and the walls. Applicant respectfully submits that Villani does not disclose or suggest a port having a plate and at least two walls extending upwardly from the plate so that corners are formed between the plate and the walls. Instead, Villani discloses a port having a flat base 17 with an open flared end 5, as

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shown in FIG. 1 of Villani. The open flared end 5 does not have corners formed between walls and a plate. In FIG. 4 of Villani, two open flared ends 25 are separated by a wall 37, such that a single corner is formed between the wall 37 and each of the open flared end 25. However, the ports shown in FIG. 4 of Villani do not have a plate and at least two walls extending upwardly from the plate so that corners are formed between the plate and the walls. The port shown in FIG. 7 of Villani also does not have a plate and at least two walls extending upwardly from the plate so that corners are formed between the plate and the walls.

Applicant, therefore, respectfully submits that independent claim 1 is neither anticipated by, nor rendered obvious in view of Villani for at least these reasons. Since claims 2, 3, 6, 7, 14-16, 33 and 34 depend from independent claim 1, they include the limitations of the independent claim. As a result, the dependent claims also are not anticipated by, or rendered obvious in view of Villani for at least the above reasons, and for reciting further patentable limitations.

Applicant, therefore, respectfully requests reconsideration and withdrawal of the rejection of claims 1-3, 6, 7, 14-16, 33 and 34 under 35 U.S.C. 102(b) as being anticipated by Villani.

Claims 17-19, 21-22, 26-28 and 35-38

Independent claim 17, from which claims 18-19, 21-22, 26-28 and 35-38 depend, also recites an implantable access device comprising a port having a plate and at least two walls extending upwardly from the plate so that corners are formed between the plate and the walls. Applicant respectfully submits that Villani does not disclose or suggest a port having a plate and at least two walls extending upwardly from the plate so that corners are formed between the plate and the walls. Applicant, therefore, respectfully submits that independent claim 17 is neither anticipated by, nor rendered obvious in view of Villani for at least these reasons. Since claims 18-19, 21-22, 26-28 and 35-38 depend from independent claim 17, they include the limitations of the independent claim. As a result, the dependent claims also are not anticipated by, or rendered obvious in view of Villani for at least the above reasons, and for reciting further patentable

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limitations. Applicant, therefore, respectfully requests reconsideration and withdrawal of the rejection of claims 17-19, 21-22, 26-28 and 35-38 under 35 U.S.C. 102(b) as being anticipated by Villani.

Claims 29 and 30

Independent claim 29, from which claim 30 depends, recites an implantable access device comprising a port having a substantially flat strike plate, wherein each of a greatest width and a greatest length of the flat strike plate is at least five times greater than a height of the port. Applicant respectfully submits that Villani does not disclose or suggest an implantable access device comprising a port having a substantially flat strike plate, wherein each of a greatest width and a greatest length of the flat strike plate is at least five times greater than a height of the port. Applicant, therefore, respectfully submits that independent claim 29 is neither anticipated by, nor rendered obvious in view of Villani. Applicant requests reconsideration and withdrawal of the rejection of claims 29 and 30 under 35 U.S.C. 102(b) as being anticipated by Villani.

Claim Rejections Based on Villani in view of Fenton, Jr.

Claims 14 and 26 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Villani in view of U.S. Patent No. 5,178,612 to Fenton, Jr. The patent office has submitted that Villani discloses all elements of claims 14 and 26 except for a wing extending outwardly from the port, but that Fenton, Jr. discloses this additional element.

Claim 14 depends from independent claim 1 and claim 26 depends from independent claim 17. As discussed above, independent claims 1 and 17 are neither anticipated by, nor rendered obvious in view of Villani because Villani does not disclose or suggest a port having a plate and at least two walls extending upwardly from the plate so that corners are formed between the plate and the walls.

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Fenton, Jr. also does not disclose or suggest a port having a plate and at least two walls extending upwardly from the plate so that corners are formed between the plate and the walls, as required by independent claims 1 and 17. Thus, the combination of Villani and Fenton, Jr. does not anticipate nor rendered obvious the subject matter of independent claims 1 and 17.

Since claim 14 depends from independent claim 1 and claim 26 depends from independent claim 17, they include the limitations of the independent claims. As a result, the dependent claims also are not rendered obvious over Villani in view of Fenton, Jr. for at least the above reasons, and for reciting further limitations. Applicant, therefore, respectfully requests reconsideration and withdrawal of the rejection of claims 14 and 26 under 35 U.S.C. 103(a) as being unpatentable over Villani in view of Fenton, Jr.

Conclusion

In view of the amendments and remarks submitted herein, applicant believes that all claims pending in the application are in condition for allowance and respectfully requests such allowance. If a telephone conference will expedite prosecution of the application the Examiner is invited to telephone the undersigned.

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If additional fees are required, or otherwise necessary to cover any deficiency in fees already paid, authorization is hereby given to charge our deposit account no. 50-1133.

Respectfully submitted.

McDermott Will & Emery LLP

Date: _____

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